

*Appn no. 09/844,965
Amendment dated April 21, 2005*

REMARKS

Claims 1, 26, 77-84, 89, 98, 100, 109-110 and 114-118 have been amended. Claims 97 and 108 have been canceled. Claims 1-14, 18-33, 36-47, 50-60, 63-72, 75-98, 100, 102-104 and 106-118 are pending. Reconsideration of this application, as amended, is requested.

Claims 1, 26, 77-84, 89 and 114-118 have been amended to specifically recite that the system and methods claimed use antimicrobial compositions comprising peroxy carboxylic acid, and that the composition is sprayed on at a temperature of about 20-25 degrees C and at a pH of about 5-7. Additionally, the claims have been amended to recite that the gaseous sterilant comprises chlorine dioxide.

The following comments are made in relation to the final Office Action dated December 21, 2004.

Claim Rejections - 112

Applicant believes that the 112 rejection has been addressed. The claims were previously amended to remove the recitation of "without immersion". Applicant continues to assert that the specification does disclose spraying without immersion.

Claim Rejections - 102

Claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40, 42-43 and 45-47 and 50-54 were rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,090,213 to Moyers. Applicants request withdrawal of the rejection, at least for the reasons provided below.

As stated above, the claims have been amended to specifically recite the antimicrobial solution used and the gaseous sterilant. There is no disclosure, or suggestion, in Moyers of using any specific compositions, much less the now-recited compositions, and the spraying of the recited compositions.

At least for these reasons, this GB reference does not anticipate claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40, 42-43 and 45-47 and 50-54 and withdrawal of the rejection is requested.

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Claim 77 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB 947,700. Applicants request withdrawal of the rejection, at least for the reasons provided below.

Claim 77 has been amended to specifically recite the antimicrobial solution used in the system and the gaseous sterilant. There is no disclosure, or suggestion, in this GB of using the now-recited compositions. This GB reference does discuss using germicidal solutions, however, no specifics are provided. The reference does provide detergents that are suitable (page 2, second column), but no antimicrobial solution comprising peroxyacrylic acid, and that the composition is sprayed on at a temperature of about 20-25 degrees C and at a pH of about 5-7 is taught or suggested. Nor does this GB reference provide a sterilant comprising chlorine dioxide.

At least for these reasons, this GB reference does not anticipate claim 77 and withdrawal of the rejection is requested.

Claim Rejections - 103

Claims 55-56, 58-60, 63-68, 70-72 and 75 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers. Applicants request withdrawal of the rejection for the reasons provided below.

As stated above, the claims have been amended to recite the specific antimicrobial solution and the gaseous sterilant used. There is no suggestion in Moyers of using any specific compositions, much less the now-recited compositions.

Claims 3-4, 6-8 and 12-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers above, and further in view of Hohmann et al., U.S. Patent No. 4,710,233.

Applicants request withdrawal of the rejection for the reasons provided below.

There is no suggestion in Moyers of using any specific compositions, much less the now-recited compositions. There is also no suggestion in Hohmann et al. of using the specific antimicrobial composition recited and the sterilant recited. From the teachings of these two references, one would not be lead to the pending claims.

Claims 26-28, 41, 44, 57, 69, 76, 78-84, 87-92, 94-95, 97-98, 100, 103-110 and 112-118 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers and further in view of GB 947,700. Applicants request withdrawal of the rejection for the reasons provided below.

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As stated above, there is no suggestion in Moyers of using any specific compositions, much less the now-recited compositions. There is also no suggestion in GB 947,700 of using the specific anti-microbial composition recited and the sterilant recited. From the teachings of these two references, one would not be lead to the pending claims.

Claims 30, 85-86, 102 and 111 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Moyers together with GB 947,700, and further in view of GB 2,040,150 A. Applicants request withdrawal of the rejection for the reasons provided below.

There is no suggestion in Moyers, GB 947,700 or their combination of using any specific compositions, much less the now-recited compositions. In GB 2,040,150 there is also no teaching or suggestion of using any specific compositions, much less the now-recited compositions. From the teachings of these three references, one would not be lead to the pending claims.

Claims 93 and 96 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Moyers together with GB 947,700 and further in view of Hohmann et al. Applicants request withdrawal of the rejection for the reasons provided below.

There is no suggestion in Moyers, GB 947,700 or their combination of using any specific compositions, much less the now-recited compositions. There is no suggestion in Hohmann et al. of using the specific anti-microbial composition recited and the sterilant recited. From the teachings of these three references, one would not be lead to the pending claims.

Further, there is no teaching or suggestion in any of Moyers, GB 947,700, Hohmann et al., GB 2,040,150, and any combination thereof, of the system and method as now recited by the pending claims.

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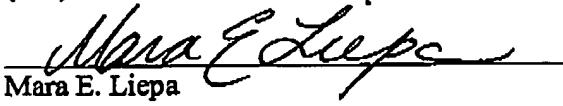
SUMMARY

In view of the above, Applicant contends the claims are allowable and respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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